

CAUTION: The following advice may be based on a rule that has been revised since the opinion was first issued. Consequently, the analysis reflected in the opinion may be outdated.

IC 4-2-6-11

During her employment with FSSA, a Case Manager had referred a family to a facility for counseling and support services. SEC found there was no violation of IC 4-2-6-11 for the employee to accept employment with the facility once she left the State since she had not had contact with the facility for more than a year, and she neither negotiated nor administered a contract with the facility while she worked for FSSA.

Indiana State Ethics Commission
Official Advisory Opinion
May 27, 2005

Background

An employee has worked as a Family Case Manager II with the FSSA since January 2, 2002. She works in the Shelby County Division of Family and Children. In early 2003, the employee investigated a family regarding sex abuse issues and subsequently made a referral to the Indianapolis Institute for Families for counseling and supportive services. The referral was completed in July, 2003. Her last contact with Indianapolis Institute for Families was September, 2003. At that time, the case was transferred to a different case manager.

Question

Can the Case Manager accept a post-employment position with the Indianapolis Institute for Families?

Findings

- (1) The relationship between Shelby County Department of Families and Children and the Indianapolis Institute for Families terminated over a year ago.
- (2) The employee did not have or exercise any authority in negotiating the contract between the Shelby County Department of Family and Children and the Indianapolis Institute for Families.
- (3) The employee did not administer the contract between Shelby County Division of Family and Children and the Indianapolis Institute for Families.

Relevant Law

IC 4-2-6-11(b) (As Amended by Public Law 222, Section 9)

This subsection applies only to a person who served as a state officer, employee, or special state employee after January 10, 2005. A former state officer, employee, or special state appointee may not accept employment or receive compensation:

- (1) as a lobbyist (as defined in IC 4-2-7-1);
- (2) from an employer if the former state officer, employee, or special state appointee

was:

(A) engaged in the negotiation or the administration of one (1) or more contracts with that employer on behalf of the state or an agency; and

(B) in a position to make a discretionary decision affecting the:

(i) outcome of the negotiation; or

(ii) nature of the administration; or

(3) from an employer if the former state officer, employee, or special state appointee made a regulatory or licensing decision that directly applied to the employer or to a parent or subsidiary of the employer; before the elapse of at least three hundred sixty-five (365) days after the date on which the former state officer, employee, or special state appointee ceases to be a state officer, employee, or special state appointee.

(c) A former state officer, employee, or special state appointee may not represent or assist a person in a particular matter involving the state if the former state officer, employee, or special state appointee personally and substantially participated in the matter as a state officer, employee, or special state appointee, even if the former state officer, employee, or special state appointee receives no compensation for the representation or assistance.

(d) A former state officer, employee, or special state appointee may not accept employment or compensation from an employer if the circumstances surrounding the employment or compensation would lead a reasonable person to believe that:

(1) employment; or

(2) compensation;

is given or had been offered for the purpose of influencing the former state officer, employee, or special state appointee in the performance of his or her duties or responsibilities while a state officer, an employee, or a special state appointee.

(e) A written advisory opinion issued by the inspector general certifying that:

(1) employment of;

(2) representation by; or

(3) assistance from;

the former state officer, employee, or special state appointee does not violate this section is conclusive proof that a former state officer, employee, or special state appointee is not in violation of this section.

Conclusion

There is no violation of the post-employment rule in IC 4-2-6-11(b) for the Case Manger to accept employment with the Indianapolis Institute for Families after she terminates her employment with FSSA.

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State Ethics Commission

Date Signed